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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1508 OF 2007
WITH
NOTICE OF MOTION NO.206 OF 2007
IN
SUIT NO.3009 OF 2006

Kishore Mavji Shah & others — Plaintiffs
versus
Smt.Chandrabhaga Thakrya Patil and others — Defendants

Mr.D.L.Mehta i/by Mr.Y.R.Shah for plaintiffs.

Mr.Bharat Zhaveri for defendants 1 to 7.

CORAM : A.M.KHANWILKAR, J.

DATE : 29th October 2007

PC :

1. This Chamber Summons No.1508 of 2007 is taken up for hearing along with Notice of Motion No.206 of 2007. Two objections have been raised on behalf of the defendant nos.1 to 7. The first submission is that the plaintiffs have failed to comply with the directions given by this Court in terms of order dated 13th August 2007. This submission is ill-advised. Even on fair reading of order dated 13th August 2007, there is nothing in the order to suggest that any direction was

issued to the plaintiffs as such. Therefore, there is no substance in this submission.

2. The second objection for allowing present Chamber Summons is that the defendants in their reply affidavit, which was filed in July 2007, have disclosed the fact that the property has been transferred in favour of the respondents. However, the present Chamber Summons has been taken out only in September 2007. Before taking out present Chamber Summons, the plaintiffs chose to file Notice of Motion seeking reliefs against the defendants. This, in my view, cannot be the basis for rejecting the request of the plaintiffs of impleadment of respondents as party defendants who are proper parties, if not necessary parties. This is so because it is on the statement made by the defendants themselves that the suit property now stands transferred in favour of the respondents, that the plaintiffs have been compelled to take out present Chamber Summons. Accordingly, the Chamber Summons is made absolute in terms of prayer clause (a). Amendments to be carried out on or before 26th November 2007.

3. Insofar as interim protection is concerned, as the respondents inspite of service have not

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chosen to appear and the assertions made against them in the affidavit in support of the Chamber Summons have remained uncontroverted coupled with the fact that by this order they have been directed to be impleaded as defendants to the suit, it is appropriate that the said party is ordered to maintain status-quo as of today with regard to the suit property till the next date of hearing of the Notice of Motion No.206 of 2007 which is kept on 28th November 2007 to be listed under caption "ad-interim". It will be open to the newly added defendants to file reply affidavit to the said motion, if they so desire, before the next date of hearing. Parties to exchange pleadings to be filed in the registry well in advance on or before 27th November 2007.

(A.M.KHANWILKAR, J.)